

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re:  FAIRFIELD SENTRY LIMITED, et al.,  Debtor in Foreign Proceedings.	Chapter 15 Case  Case No. 10-13164 (CGM)  Jointly Administered
FAIRFIELD SENTRY LTD. (IN LIQUIDATION), et al.,  Plaintiffs,  v.  THEODOOR GGC AMSTERDAM, et al.,  Defendants.	Adv. Pro. No. 10-03496 (CGM)  Administratively Consolidated
FAIRFIELD SENTRY LTD. (IN LIQUIDATION), et al.,  Plaintiffs,  v.  HSBC SECURITIES SERVICES (LUXEMBOURG) S.A., et al.,  Defendants.	Adv. Pro. No. 10-03630 (CGM)
FAIRFIELD SENTRY LTD. (IN LIQUIDATION), et al.,  Plaintiffs,  v.  ABN AMRO SCHWEIZ AG, et al.,  Defendants.	Adv. Pro. No. 10-03635 (CGM)

FAIRFIELD SENTRY LTD. (IN LIQUIDATION), et al.,

Adv. Pro. No. 10-03636 (CGM)

Plaintiffs,

v.

ABN AMRO SCHWEIZ AG, et al.,

Defendants.

**DECLARATION OF DAVID ELSBERG**  
**IN SUPPORT OF THE LIQUIDATORS' MEMORANDUM OF LAW**  
**IN OPPOSITION TO DEFENDANTS' MOTIONS TO DISMISS**  
**FOR INSUFFICIENT SERVICE OF PROCESS**

I, DAVID ELSBERG, do hereby declare, under penalty of perjury under the laws of the United States of America, that the following is true and correct to the best of my knowledge and belief:

1. I am a member of the law firm of Selendy & Gay PLLC, counsel for Kenneth Krys and Greig Mitchell (together, the “Liquidators” or “Foreign Representatives”), in their capacities as the duly appointed Liquidators and Foreign Representatives of Fairfield Sentry Limited (In Liquidation), Fairfield Sigma Limited (In Liquidation), and Fairfield Lambda Limited (In Liquidation). I submit this Declaration in support of the Liquidators’ Memorandum of Law in Opposition to Defendants’ Motions to Dismiss for Insufficient Service of Process.

2. Attached as Exhibit 1 is a true and correct copy of the transcript of the April 21, 2021 conference before this Court.

3. Included herein are materials relevant to each of the Defendants’ motions.

**I. DEFENDANTS LLB AND LGT BANK**

4. Attached as Exhibit 2 is a true and correct copy of the Stipulation dated July 15, 2021 between counsel for the Liquidators and counsel for Liechtensteinische Landesbank (sued as

Liechtensteinische LB Reinvest AMS) (“LLB”) and LGT Bank in Liechtenstein AG (“LGT Bank”).

5. Attached as Exhibit 3 is a redacted copy of the facsimile communication from Citco Bank Nederland N.V. to Liechtensteinische Landesbank AG Reinvest AMS dated September 24, 2010, which was produced to the Liquidators by LLB as LLB000027–36. LLB has redacted the names of its employees based on counsel for LLB’s understanding that those names are protected under the EU General Data Protection Regulation (“GDPR”) and Liechtenstein’s Data Protection Act (“LDPA”). The Liquidators have filed a motion to seal, contemporaneously herewith. An unredacted version of the exhibit is being hand delivered to the Clerk’s Office, consistent with Local Bankruptcy Rule 9018-1.

6. Attached as Exhibit 4 is a redacted copy of the e-mail from LGT Bank’s employees to outside counsel dated September 21, 2010, which was produced to the Liquidators by LGT Bank as LGT00028. LGT Bank has redacted the names of its employees based on counsel for LGT Bank’s understanding that those names are protected under the GDPR and LDPA. The Liquidators have filed a motion to seal, contemporaneously herewith. An unredacted version of the exhibit is being hand delivered to the Clerk’s Office, consistent with Local Bankruptcy Rule 9018-1.

7. Attached as Exhibit 5 is a true and correct copy of the Long-Form Subscription Agreement for Fairfield Sigma Limited dated August 16, 2005 and executed by Citco Global Custody N.V. on behalf of the beneficial owner of shares held under reference number 102900, which I understand from the July 26, 2021 Declaration of Kenneth M. Krys (“Krys Declaration”) filed herewith is the reference number associated with LGT Bank.

8. Attached as Exhibit 6 is a true and correct copy of the Short-Form Subscription Agreement for Fairfield Sentry Limited dated August 19, 2007 and executed by Citco Global

Custody N.V. on behalf of the beneficial owner of shares held under reference number 145325, which I understand from the Krys Declaration is the reference number associated with LLB.

9. Attached as Exhibit 7 is a true and correct copy of the Short-Form Subscription Agreement for Fairfield Sigma Limited dated December 24, 2007 and executed by Citco Global Custody N.V. on behalf of the beneficial owner of shares held under reference number 145325, which I understand from the Krys Declaration is the reference number associated with LLB.

## **II. DEFENDANT ARDEN INTERNATIONAL CAPITAL LIMITED**

10. Attached as Exhibit 8 is a true and correct copy of the Stipulation dated July 15, 2021 between counsel for the Liquidators and counsel for Arden International Capital Limited.

## **III. DEFENDANT UNIFORTUNE CONSERVATIVE SIDE POCKET**

11. Attached as Exhibit 9 is a true and correct copy of the Stipulation dated July 23, 2021 between counsel for the Liquidators and counsel for Unifortune Conservative Side Pocket.

12. Attached as Exhibit 10 is a true and correct copy of the Long-Form Subscription Agreement for Fairfield Sentry Limited dated October 6, 2005 and executed by Citco Global Custody N.V. on behalf of the beneficial owner of shares held under reference number 190096, which I understand from the Krys Declaration is the reference number associated with Unifortune.

## **IV. DEFENDANT PRIVATE-SPACE LTD.**

13. Attached as Exhibit 11 is a true and correct copy of the Stipulation dated July 20, 2021 between counsel for the Liquidators and counsel for Private-Space Ltd.

14. Attached as Exhibit 12 is a true and correct copy of the letter from HSBC Securities Services (Luxembourg) S.A. to Private-Space Ltd c/o Citco B.V.I. Limited dated November 19, 2010, which was produced to the Liquidators as PSL0001-03.

15. Attached as Exhibit 13 is a true and correct copy of the Long-Form Subscription Agreement for Fairfield Sentry Limited dated February 22, 2005 and executed by HSBC SSL/PS, which was produced to the Liquidators as PSL0180.

16. Attached as Exhibit 14 is a true and correct copy of the Short-Form Subscription Agreement for Fairfield Sentry Limited dated September 29, 2006 and executed by HSBC SSL A/C PS.

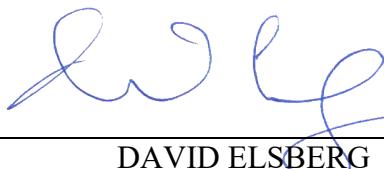
## **V. DEFENDANTS VP BANK AND CENTRUM BANK**

17. Attached as Exhibit 15 is a true and correct copy of the Stipulation dated July 21, 2021 between counsel for the Liquidators and counsel for Verwaltungs-und Privat-Bank Aktiengesellschaft and Centrum Bank Aktiengesellschaft.

18. Attached as Exhibit 16 is a true and correct copy of the Long-Form Subscription Agreement for Fairfield Sentry Limited dated July 5, 2007 and executed by Citco Global Custody N.V. on behalf of the beneficial owner of shares held under reference number 190500, which I understand from the Krys Declaration is the reference number associated with Centrum Bank.

19. Attached as Exhibit 17 is a true and correct copy of a facsimile communication from Rafael Funken to Fairfield Group dated October 24, 2003.

Dated: New York, New York  
July 26, 2021



DAVID ELSBERG